

Joseph C. Delmotte (CA SBN 259460)  
jdelmotte@aldridgepite.com  
**ALDRIDGE PITE, LLP**  
8880 Rio San Diego Drive, Suite 725  
San Diego, CA 92108  
Telephone: (858) 750-7600  
Facsimile: (619) 590-1385

Attorneys for *Respondent/Secured Creditor*  
THE BANK OF NEW YORK MELLON FKA THE BANK  
OF NEW YORK SUCCESSOR TRUSTEE TO JPMORGAN  
CHASE BANK, N.A., AS TRUSTEE FOR THE BEAR STEARNS  
ALT-A TRUST, MORTGAGE PASS-THROUGH CERTIFICATES,  
SERIES 2005-04

**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION**

In re  
JEFFREY S. BEIER,  
Debtor.

Case No. 8:23-bk-10898-TA

Chapter 7

**DECLARATION OF JAE MIN IN  
SUPPORT OF OPPOSITION TO  
OBJECTION TO PROOF OF CLAIM 2-  
1 FILED BY THE BANK OF NEW  
YORK MELLON, FKA THE BANK OF  
NEW YORK SUCCEOR TRUSTEE TO  
JPMORGAN CHASE BANK, N.A., AS  
TRUSTEE FOR THE BEAR STEARNS  
ALT-A TRUST, MORTGAGE PASS-  
THROUGH CERTIFICATES, SERIES  
2005-04**

DATE: January 9, 2024  
TIME: 11:00 a.m.  
CTRM: 5b

411 West Fourth Street  
Santa Ana, CA 92701

I, Jae Min, declare:

1. I am a Assistant Vice President of Bank of America, N.A.  
("BANA") and am authorized to sign this declaration on behalf of BANA, successor by merger  
to BAC Home Loan Servicing, LP, as servicing agent for The Bank of New York Mellon FKA

1 The Bank of New York, as Successor Trustee to JPMorgan Chase Bank, N.A., as Trustee for the  
2 Bear Stearns ALT-A Trust, Mortgage Pass-Through Certificates, Series 2005-04 ("BONY") with  
3 respect to a certain loan (the "Loan") provided to Jeffrey S. Beier ("Debtor") and Toni R. Beier  
4 (collectively, the "Borrowers") which loan is evidenced by the InterestOnly Adjustable Rate  
5 Note ("Note") (defined below) and secured by the Deed of Trust ("Deed of Trust") (defined  
6 below).

7 2. As part of my job responsibilities for BANA, I have personal knowledge of and  
8 am familiar with the types of records maintained by BANA in connection with the Loan and the  
9 procedures for creating those types of records. I have access to and have reviewed the books,  
10 records and files of BANA that pertain to the Loan including the loss mitigation history of the  
11 Loan, and extensions of credit given to Borrowers concerning the Property (defined below).

12 3. The information in this declaration is taken from BANA's business records  
13 regarding the Loan. I have personal knowledge of BANA's procedures for creating these types of  
14 records. The records are: (a) made at or near the time of the occurrence of the matters recorded  
15 by persons with personal knowledge of the information in the business record, or from  
16 information transmitted by persons with personal knowledge; (b) kept in the course of BANA's  
17 regularly conducted business activities; and (c) it is the regular practice of BANA to make such  
18 records.

19 4. On or about March 2, 2005, the Borrowers executed the Note in the original  
20 principal amount of \$1,470,000.00. A true and correct copy of the Note is attached hereto as  
21 **Exhibit A.**

22 5. The endorsement stamp from Countrywide Home Loans, Inc. to JPMorgan Chase  
23 Bank, as Trustee on the Note was voided.

24 6. As evidenced by the allonge attached to the Note, the Note is endorsed in blank.  
25 According to BANA's records, BONY was in possession, either directly or through the use of an  
26 authorized agent and/or document custodian, of the endorsed in blank Note at the time BONY  
27 filed its proof of claim ("Proof of Claim") in Debtor's case number 8:23-bk-10898-TA on July  
28 12, 2023, and BONY remains in possession of the Note as of the date of this declaration.

1           7. Pursuant to the Deed of Trust, all obligations of the Borrowers under the Note and  
2 Deed of Trust under and with respect to the Loan are secured by certain real property (the  
3 "Property"). The Property address is 10 Tucson, Coto De Caza Area, California 92679. A copy  
4 of the Deed of Trust is attached hereto as **Exhibit B**.

5           8. All rights and remedies under the Deed of Trust have been assigned to BONY  
6 pursuant to certain assignments of deed of trust. A copy of the Substitution of Trustee and  
7 Assignment of Deed of Trust and Corrective Assignment of Deed of Trust are attached  
8 collectively hereto as **Exhibit C**.

9           9. After the origination of the Loan, the Loan was serviced by Countrywide Home  
10 Loans Servicing LP. Effective April 27, 2009, Countrywide Home Loans Servicing LP changed  
11 its name to BAC Home Loans Servicing, LP. Effective July 1, 2011, BAC Home Loans  
12 Servicing, LP merged with and into BANA and BANA has serviced the Loan since July 1, 2011  
13 to this date.

14           10. BANA was appointed as attorney-in-fact by The Bank of New York Mellon  
15 F/K/A The Bank of New York, successor in interest to JPMorgan Chase Bank, N.A., as Trustee  
16 in connection with certain trusts including the BONY trust. A copy of the Limited Power of  
17 Attorney is attached hereto as **Exhibit D**.

18           11. On or about November 1, 2016, BANA received a Request for Mortgage  
19 Assistance from Debtor regarding the Loan but was denied a loan modification. Debtor appealed  
20 the denial of the loan modification and the appeal was denied. A copy of the Request for  
21 Mortgage Assistance sent by Debtor to BANA and BANA's letter denying the loan modification  
22 appeal are attached collectively hereto as **Exhibit E**.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

12. On July 12, 2023, BONY filed its Proof of Claim in Debtor's case number 8:23-bk-10898-TA, which was designated as claim number 2 on the Court's claims register and which reflects a total secured claim in the amount of \$2,786,180.50, and a pre-petition arrearage claim of \$1,787,448.67 as of the bankruptcy petition date of April 28, 2023. A copy of the filed Proof of Claim is attached hereto as **Exhibit F**.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 22 day of December, 2023 at Simi Valley, California

Name:

Tae Min

Title: Assistant Vice President

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
8880 Rio San Diego Drive, Suite 725 San Diego, CA 92108

A true and correct copy of the foregoing document entitled: **Declaration Of Jae Min In Support Of Opposition To Objection To Proof Of Claim 2-1 Filed By The Bank Of New York Mellon, Fka The Bank Of New York Successor Trustee To Jpmorgan Chase Bank, N.A., As Trustee For The Bear Stearns Alt-A Trust, Mortgage Pass-Through Certificates, Series 2005-04** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On *(date)* December 26, 2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

**U.S. TRUSTEE:**

ustpregion16.sa.ecf@usdoj.gov

**TRUSTEE:**

Arturo Cisneros- arturo@mclaw.org

**ATTORNEY FOR DEBTOR:**

David R Haberbush dhaberbush@lbinsolvency.com

**TRUSTEE'S ATTORNEY:**

Nathan F. Smith- nathan@mclaw.org

☐ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On *(date)* December 26, 2023, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

**PRESIDING JUDGE:**

Honorable Theodor Albert  
U.S. Bankruptcy Court Central District Of California  
(Santa Ana)  
Ronald Reagan Federal Building and Courthouse  
411 West Fourth Street, Suite 5085 / Courtroom 5B  
Santa Ana, CA 92701-4593

**DEBTOR:**

Jeffrey S Beier  
P O Box 7644  
Laguna Niguel, CA 92677

☐ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on *(date)* \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

12/26/2023  
Date

Lauren Timby  
Printed name

/s/ Lauren Timby  
Signature